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UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
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4  
United States of America, ) File No. 20CR232 (13)  
5 Plaintiff, ) (JRT/KMM)  
6 vs. ) St. Paul, Minnesota  
7 Bryant Jarode Critten, ) November 13, 2020  
8 Defendant. ) 10:00 A.M.  
9

10 BEFORE THE HONORABLE JUDGE PAUL A. MAGNUSON  
11 UNITED STATES DISTRICT COURT  
**(CHANGE OF PLEA HEARING VIA VIDEO CONFERENCE)**

12 APPEARANCES

13 For the Plaintiff: United States Attorney's Office  
14 HARRY JACOBS, AUSA  
300 South Fourth Street  
Suite 600  
Minneapolis, MN 55415

15 For the Defendant: Caplan & Tamburnino  
16 JILL A. BRISBOIS, ESQ.  
10 South Fifth Street  
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Minneapolis, MN 55402

17 Court Reporter: KRISTINE MOUSSEAU, CRR-RPR  
18 300 South Fourth Street  
19 Box 1005  
20 Minneapolis, MN 55415

21  
22 Proceedings recorded by mechanical stenography;  
23 transcript produced by computer.  
24  
25

1 10:00 A.M.

2

3 (In open court via video conference.)

4 THE COURT: Good morning, everyone. We have the  
5 matter of the United States versus Crittenton for a plea, and  
6 may we have the defendant sworn, please. I'll do it.

7 Mr. Crittenton, if you would raise your right hand,  
8 please.

9 THE DEFENDANT: Yes, sir.

10 (Defendant sworn.)

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay. Thank you. You have to  
13 understand, Mr. Crittenton, that because you are under oath,  
14 testimony given today must be truthful, and lack of truth  
15 could result in serious charges of perjury or other things.

16 Now, at this point because we're dealing with  
17 what we anticipate to be a plea, I'm going to ask  
18 Mr. Jacobs to summarize the plea agreement for the record.  
19 You don't need to go into the factual basis at this point  
20 because we'll go into that later, but if you would  
21 summarize the plea agreement for the record and submit it  
22 to the Court, please.

23 MR. JACOBS: Thank you, Your Honor. I believe we  
24 tendered a signed copy of the plea agreement to the Court  
25 yesterday virtually, but I will go through the plea

1 agreement now.

2                   The defendant agrees to plead guilty to Count 1  
3 of the indictment which charges him with conspiracy to  
4 commit mail fraud in violation of 18 U.S.C. 1341, 1349 and  
5 2326. The defendant fully understands the nature and the  
6 elements of these charges. I will come back to the factual  
7 basis, Your Honor.

8                   The plea agreement contains a waiver of pretrial  
9 motions. The defendant understands and agrees that he has  
10 the right to file pretrial motions, and he gives up those  
11 rights pursuant to this plea agreement. The defendant  
12 understands that he is waiving his constitutional trial  
13 rights.

14                   Defendant understands he has the right to go to  
15 trial and he would be presumed innocent at trial. He would  
16 have the right to a trial by jury and the right to  
17 assistance of counsel. He gives up these rights pursuant  
18 to this plea agreement, and he does so knowingly and  
19 voluntarily.

20                   Paragraph 5 of the plea agreement deals with  
21 additional consequences. He understands that as a result  
22 of the conviction, he could experience additional  
23 consequences, including the loss of the right to carry a  
24 firearm, the right to vote or the right to hold public  
25 office.

1                   Paragraph 6 of the plea agreement deals with the  
2                   statutory penalties pursuant to the charges of conspiracy  
3                   to commit mail fraud in violation of 18 U.S.C. 1341, 1349  
4                   and 2326.

5                   There is a statutory maximum of 30 years in  
6                   prison, a supervised release term of not more than five  
7                   years, a maximum fine of \$250,000 or twice the gross gain  
8                   or loss caused by this offense, restitution as agreed to by  
9                   the parties, which I will discuss momentarily, and a  
10                  mandatory special assessment of \$100.

11                  Paragraph 7 of the plea agreement deals with  
12                  guideline calculations. The base offense level in this  
13                  case is 7 pursuant to Guidelines Section 2B1.1A1. There  
14                  are several specific offense characteristics here.

15                  The parties pursuant to the plea agreement agree  
16                  that the base offense level will be increased by 18 levels  
17                  because the loss amount in this case is greater than 3.5  
18                  million but less than 3.9 million. The parties also agree  
19                  that the base offense level should be increased by two  
20                  levels because the offense involved ten or more victims and  
21                  was committed through mass marketing.

22                  The parties agree that no additional specific  
23                  offense characteristics apply. With respect to Chapter 3  
24                  adjustments, the parties agree that the offense level  
25                  should be increased by four levels because Mr. Crittenton knew

1 or should have known that the offense involved a large  
2 number of vulnerable victims, and the parties agree that  
3 the offense level should be increased by two levels because  
4 the defendant was a manager or supervisor of the criminal  
5 activity here.

6 The parties also agree that the government will  
7 recommend that the defendant receive a two-level reduction  
8 for acceptance of responsibility pursuant -- assuming that  
9 he continues to abide by the conditions of the plea  
10 agreement and his conditions of release.

11 The government also agrees that assuming he  
12 continues to do those things, it will move for an  
13 additional one level reduction at the time of sentencing.

14 Pursuant to the plea agreement, the parties  
15 believe based on information known at this time that  
16 Mr. Critten falls into a Criminal History Category of I.  
17 That is just a stipulation -- that is just based on the  
18 agreement.

19 That is not a stipulation but based on  
20 information known to the parties at this time, and based on  
21 the information that I have just discussed contained in the  
22 plea agreement, the guideline range here based on the  
23 adjusted offense level of 30 and a Criminal History  
24 Category of I, the sentencing guideline range is 97 to 121  
25 months imprisonment.

1                   And there is a corresponding fine range based on  
2 the adjusted offense level of \$30,000 to \$300,000.

3                   Paragraph 8 -- paragraph 8 of the plea agreement deals with  
4 revocation of supervised release. The defendant  
5 understands that if he were to violate any condition of his  
6 supervised release, he could be sentenced to an additional  
7 term of imprisonment.

8                   Paragraph 9 of the plea agreement discusses  
9 discretion of the Court. The defendant understands that  
10 the terms of the plea agreement are binding on himself and  
11 the government only, that the plea agreement does not bind  
12 the Court and that the sentencing guidelines are advisory  
13 here and the Court will make its own determination as to  
14 the applicable guideline ranges, as well as the sentencing  
15 term.

16                   Paragraph 10 deals with agreements for sentencing  
17 recommendations. The defendant understands that both  
18 parties are free to recommend whatever sentence they deem  
19 appropriate. Either party can make a motion for departure  
20 as to the applicable guideline range.

21                   Paragraph 11 deals with the special assessment.  
22 The defendant understands that he will be required to pay a  
23 special assessment in the amount of \$100, and he agrees to  
24 do so before the time of sentencing.

25                   Paragraph 12 of the plea agreement deals with

1                   restitution. The defendant understands and agrees that the  
2                   mandatory Victim Restitution Act applies in this case, and  
3                   he agrees to pay \$50,000 in restitution to all identified  
4                   victims in this and other related cases.

5                   Paragraph 13 deals with disclosure of assets.  
6                   The defendant agrees to completely disclose to the U. S.  
7                   Attorney's Office the existence of any assets in advance of  
8                   his sentencing hearing.

9                   Paragraph 14 of the plea agreement deals with  
10                  forfeiture. The defendant agrees to forfeit to the United  
11                  States any property which was derived or traceable to the  
12                  mail fraud conspiracy scheme charged in Count 1 of this  
13                  indictment.

14                  Paragraph 15 of the plea agreement is a venue  
15                  waiver, Your Honor. In exchange for the consideration of  
16                  this plea agreement, the defendant waives all rights to  
17                  challenge venue in the state and District of Minnesota and  
18                  does so knowingly and voluntarily.

19                  Paragraph 16 is a waiver of appeal and collateral  
20                  attack. The defendant pursuant to the plea agreement  
21                  waives the right to appeal any non-jurisdictional issues  
22                  relating to this case, and this appeal includes the  
23                  defendant's waiver of his right to appeal a guilt or  
24                  innocence sentence or restitution.

25                  However, the parties do agree pursuant to the

1       plea agreement that this waiver of appeal does not apply to  
2       an appeal of the substantive reasonableness of a term of  
3       imprisonment greater than 121 months, which is the high end  
4       of the guideline range, and the reciprocal waiver of the  
5       government as to a term of imprisonment below 97 months,  
6       which is the low end of the guideline range.

7               In addition, the plea agreement waives the right  
8       to any collateral attack under 28 U.S.C. 2255. Chapter --  
9       excuse me. Paragraph 17 of the plea agreement is a Freedom  
10       of Information Act waiver. The defendant pursuant to this  
11       plea agreement waives his right to obtain information  
12       pursuant to the Freedom of Information Act.

13               Your Honor, and finally, paragraph 18 is a  
14       complete agreement. The defendant pursuant to that  
15       paragraph acknowledges that he has read the plea agreement,  
16       that he has reviewed it with his counsel and that he  
17       understands the plea agreement and that this agreement,  
18       along with any additional agreements signed by the parties  
19       before the entrance of this plea, is the entire agreement  
20       and understanding between the defendant and the United  
21       States of America.

22               THE COURT: Okay. Thank you very much.

23               Mr. Critten, it's my understanding that you have  
24       in fact executed this plea agreement; is that correct?

25               THE DEFENDANT: Yes, sir.

1 THE COURT: And have you had opportunity to  
2 review the plea agreement with your lawyer, Ms. Brisbois,  
3 just literally paragraph by paragraph?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: You understand all the terms and  
6 conditions of this plea agreement?

7 THE DEFENDANT: Yes, sir.

10 THE DEFENDANT: Yes, sir.

16 That supervised release means that you are  
17 supervised under terms and conditions. If you violate  
18 those terms and conditions, you could be put back in prison  
19 for the length of term of that supervised release.

20 You're facing a fine of \$250,000 pursuant to the  
21 statute, and because of the gross nature, another \$50,000  
22 for a total fine of \$300,000.

1                   THE DEFENDANT: Yes, sir.

2                   THE COURT: Now, aside from this plea agreement  
3                   itself, have there been any other promises made as to what  
4                   the Court would do at sentencing? In other words, are  
5                   there any side deals?

6                   THE DEFENDANT: No, sir.

7                   THE COURT: You understand that I need not accept  
8                   this plea unless I'm satisfied of two things. One, that  
9                   you fully understand your constitutional rights; and two,  
10                  that you're actually guilty of the offense charged.

11                  Do you understand that?

12                  THE DEFENDANT: Yes, sir.

13                  THE COURT: Do you further understand that -- and  
14                  let's go over these constitutional rights first. First of  
15                  all, do you understand that you have a right to be  
16                  represented by a lawyer at every stage of the proceeding?  
17                  If you cannot afford a lawyer, a lawyer will be appointed  
18                  on your behalf.

19                  Do you understand that?

20                  THE DEFENDANT: Yes, sir.

21                  THE COURT: Do you further understand you have a  
22                  right to plead not guilty, to persist in that plea of not  
23                  guilty and have your case go forward to trial?

24                  THE DEFENDANT: Yes, sir.

25                  THE COURT: Do you also understand that you have

1 a right to a speedy trial? It's a trial within 70 days of  
2 the date of your indictment. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you further understand that you  
5 have a right to a trial by a jury of twelve persons. They  
6 must unanimously agree that you're guilty before you can be  
7 convicted. Do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you further understand that you  
10 have the right to assistance of counsel at trial?

11 Ms. Brisbois could be with you at all times during a trial.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you also understand that at that  
14 trial, you would have a right to cross-examine and confront  
15 any witnesses called against you?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you further understand that you  
18 are in fact presumed innocent until actually proven guilty?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you also understand the government  
21 must prove its case against you beyond a reasonable doubt?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you further understand that at a  
24 trial you would have a right to take the witness stand,  
25 testify and tell your side of the story?

1                   THE DEFENDANT: Yes, sir.

2                   THE COURT: Do you also understand that you  
3 cannot be compelled to incriminate yourself? You have an  
4 absolute right to remain silent, and after you talked it  
5 over with Ms. Brisbois, if you decided not to testify, that  
6 Mr. Jacobs or whoever is prosecuting the case would be  
7 prohibited from commenting to the jury about your failure  
8 to testify.

9                   Do you understand all of that?

10                  THE DEFENDANT: Yes, sir.

11                  THE COURT: Do you further understand you have a  
12 right to compulsory process or subpoena power to bring any  
13 witnesses in on your own behalf?

14                  THE DEFENDANT: Yes, sir.

15                  THE COURT: Now, you understand, Mr. Crittenton,  
16 that if this plea is accepted, there will not be a trial of  
17 any kind. Do you understand that?

18                  THE DEFENDANT: Yes, sir.

19                  THE COURT: Do you further understand that  
20 pursuant to this plea agreement, there is severe  
21 limitations on your right to appeal any aspect of this. Do  
22 you understand that?

23                  THE DEFENDANT: Yes, sir.

24                  THE COURT: Now, there is one possibility I think  
25 of appeal, and that is if I were to sentence above the

1 guidelines without a reason or if I were to make a mistake  
2 in the guidelines or something of that nature, you would  
3 have the right to appeal, but it's an extremely limited  
4 right.

5 Do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Now, in addition to that, you  
8 understand that if you were to take such an appeal, you  
9 have to do so within 14 days of the date of your  
10 sentencing. Do you understand that, or give notice of that  
11 within 14 days of the date of your sentencing.

12 Do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Now, we've gone over a whole series  
15 of rights. Do you have any questions about any of them?

16 THE DEFENDANT: No, sir.

17 THE COURT: Do you understand these rights?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And you voluntarily waive these  
20 rights?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Now, again, has there been any force  
23 or threats or promises made apart from the plea agreement  
24 itself?

25 THE DEFENDANT: No, sir.

1                   THE COURT: Have you had any drugs or alcohol in  
2 the last 24 hours?

3                   THE DEFENDANT: No, sir.

4                   THE COURT: Have you had sufficient time to  
5 confer with your lawyer, Ms. Brisbois?

6                   THE DEFENDANT: Yes, sir.

7                   THE COURT: And has she done a good job on your  
8 behalf? Are you satisfied with her representation?

9                   THE DEFENDANT: Yes, sir.

10                  THE COURT: Now, there is one other factor that I  
11 should mention, I think, Mr. Crittenton, for you to understand  
12 that this case is assigned to Chief Judge Tunheim, and I'm  
13 just kind of filling in for him and taking some pleas,  
14 et cetera.

15                  There have been no arrangements made as to who  
16 the sentencing judge would be. The case remains assigned  
17 to Judge Tunheim, so it may be that I would pass sentence  
18 on your case. It may be that Judge Tunheim would pass on  
19 the sentence on your case.

20                  In either event, both of us have Article III  
21 status and are entitled to do that, to pass that sentence.  
22 Do you understand that?

23                  THE DEFENDANT: Yes, sir.

24                  THE COURT: Now, I think we're now at the point  
25 that we can look to the mail fraud count. How do you

1           plead, guilty or not guilty?

2           THE DEFENDANT: Guilty.

3           THE COURT: Okay. And, Mr. Jacobs, would you be  
4           kind enough to inquire as to the facts of the case, please?

5           MR. JACOBS: Certainly, Your Honor. Thank you.

6           Good morning, Mr. Crittenton.

7           THE DEFENDANT: Good morning.

8           MR. JACOBS: If at any point you can't hear me or  
9           you need me to repeat a question, please let me know, and  
10          I'm happy to do so. Mr. Crittenton, from in or about at least  
11          August of 2013 through in or about February of 2020, were  
12          you employed at a company called Leisure Time Resources?

13          THE DEFENDANT: Yes, sir.

14          MR. JACOBS: If I refer to that company as LTR,  
15          will you understand what I'm talking about?

16          THE DEFENDANT: Yes, sir.

17          MR. JACOBS: In the state and District of  
18          Minnesota during that time period, did you knowingly  
19          conspire with others to devise a scheme and artifice to  
20          defraud and to obtain money by materially false and  
21          fraudulent pretenses?

22          THE DEFENDANT: Yes, sir.

23          MR. JACOBS: Was that scheme to defraud in  
24          connection with telemarketing?

25          THE DEFENDANT: Yes, sir.

1 MR. JACOBS: Did that scheme to defraud victimize  
2 10 or more people over the age of 55?

3 THE DEFENDANT: Yes, sir.

4 MR. JACOBS: For the purpose of executing that  
5 scheme, was there cause to be the sending, delivery or  
6 receipt of mail through the United States Postal Service?

7 THE DEFENDANT: Yes, sir.

8 MR. JACOBS: Now I'll talk a little bit more  
9 specifically about the fraud here. Did you participate in  
10 the telemarketing fraud scheme involving magazine  
11 subscription sales?

12 | THE DEFENDANT: Yes, sir.

13 MR. JACOBS: Did you work as a telemarketing for  
14 LTR?

15 | THE DEFENDANT: Yes, sir.

16 MR. JACOBS: Is LTR a Florida based company  
17 involved in fraudulent magazine sales?

18 | THE DEFENDANT: Yes, sir.

19 MR. JACOBS: Is LTR owned and operated by  
20 codefendants Anthony Moulder and John Blalock?

21 | THE DEFENDANT: Yes, sir.

22 MR. JACOBS: Did LTR operate and did you work at  
23 a telemarketing call center in Cape Coral, Florida?

24 | THE DEFENDANT: Yes, sir.

25 MR. JACOBS: In committing this scheme to

1 defraud, would you and others at the company use fraudulent  
2 sales scripts to defraud victims?

3 THE DEFENDANT: Yes, sir.

4 MR. JACOBS: Were many of those victims elderly  
5 or otherwise vulnerable?

6 THE DEFENDANT: Yes, sir.

7 MR. JACOBS: Were the fraudulent sales scripts  
8 designed to induce victims to make large or repeat payments  
9 to LTR and other companies?

10 THE DEFENDANT: Yes, sir.

11 MR. JACOBS: Would the company obtain lists of  
12 consumers who had active magazine subscriptions through  
13 other companies?

14 THE DEFENDANT: Yes, sir.

15 MR. JACOBS: Were these referred to sometimes as  
16 lead lists?

17 THE DEFENDANT: Yes, sir.

18 MR. JACOBS: Would you and other telemarketers at  
19 that company then call individuals on those lead lists?

20 THE DEFENDANT: Yes, sir.

21 MR. JACOBS: And would you use the fraudulent  
22 sales scripts that we had just discussed?

23 THE DEFENDANT: Yes, sir.

24 MR. JACOBS: And would you make a series of  
25 knowing lies and misrepresentations to sign them up for a

1 new magazine subscription?

2 THE DEFENDANT: Yes, sir.

3 MR. JACOBS: Would you and others at the company  
4 claim that you were calling from the victim consumer's  
5 existing magazine company?

6 THE DEFENDANT: Yes, sir.

7 MR. JACOBS: But was that true?

8 THE DEFENDANT: No, sir.

9 MR. JACOBS: Would you and other telemarketers at  
10 the company claim that the victim's account was set to  
11 renew for a 60-month term at midnight?

12 THE DEFENDANT: Yes, sir.

13 MR. JACOBS: Was that true?

14 THE DEFENDANT: No, sir.

15 MR. JACOBS: Would you and other telemarketers  
16 offer to take this so-called automatic renewal off the  
17 account?

18 THE DEFENDANT: Yes, sir.

19 MR. JACOBS: Would you claim or offer to reduce  
20 the victim consumer's monthly magazine payment?

21 THE DEFENDANT: Yes, sir.

22 MR. JACOBS: But in reality, did LTR have any  
23 existing relationship typically with these victim  
24 consumers?

25 THE DEFENDANT: No, sir.

1 MR. JACOBS: Instead did you or other  
2 telemarketers call to trick them into unwittingly signing  
3 up for a new magazine subscription?

4 THE DEFENDANT: Yes, sir.

5 MR. JACOBS: In the course of this ongoing  
6 scheme, did telemarketers from LTR and the owners of LTR  
7 defraud thousands of victims?

8 | THE DEFENDANT: Yes, sir.

11 THE DEFENDANT: Yes, sir.

12 MR. JACOBS: In between August 2013 and February  
13 2020, did LTR collect approximately \$9,465,000 from victims  
14 as a result of this fraudulent scheme?

15 THE DEFENDANT: Yes, sir.

16 MR. JACOBS: Mr. Critten, are you pleading guilty  
17 today knowingly and voluntarily?

18 | THE DEFENDANT: Yes, sir.

19 MR. JACOBS: Are you pleading guilty today  
20 because you are in fact guilty of the charges in the  
21 indictment?

22 | THE DEFENDANT: Yes, sir.

23 MR. JACOBS: Thank you, Mr. Crittenton.

24 Your Honor, I have nothing further on the factual  
25 basis.

1                   THE COURT: Okay. Excuse me. Okay. Thank you  
2                   very much.

3                   Mr. Critten, based upon the testimony presented  
4                   in the matter, the Court does find that you are actually  
5                   guilty of the offense charged in this matter. I do at this  
6                   time order a presentence investigation report, ask that the  
7                   probation service prepare that report, submit it to the  
8                   Court.

9                   I have to tell you, Mr. Critten, because of the  
10                   large number of defendants that, codefendants in this  
11                   matter, it may be some time until sentencing in fact will  
12                   be executed.

13                   I just can't give you any assurances about that  
14                   one way or another because quite honestly, I have not  
15                   talked to the probation department about how they wish to  
16                   proceed in it, and I have not talked to Judge Tunheim about  
17                   how he wishes to proceed.

18                   So I'm just going to leave any sentencing date  
19                   open, and subject to your being advised, suggest that you  
20                   remain on bond according to current terms and conditions  
21                   pending sentencing in the matter, but I do have to let you  
22                   know that once sentencing has been determined, it's  
23                   extremely important that you appear at that sentencing.

24                   Failure to appear can result in another very  
25                   serious crime and in addition to the matter before us, and

1 therefore you need to be sure that you do appear.

2 Are there any other matters to come to our  
3 attention at this time?

4 MR. JACOBS: None from the government, Your  
5 Honor.

6 MS. BRISBOIS: No, Your Honor.

7 THE COURT: Ms. Brisbois?

8 MS. BRISBOIS: No, Your Honor.

9 THE COURT: Okay. We thank you very much. We  
10 will in any event stand in recess at this time.

11 Ms. Brisbois, I think this is the first time I  
12 have had the privilege of having you in the court. You  
13 happen to share a surname with a very fine jurist in  
14 Duluth.

15 Is there any relationship?

16 MS. BRISBOIS: There is not.

17 THE COURT: It would be worthwhile.

18 MS. BRISBOIS: Yeah.

19 THE COURT: Very good. Thank you very much. I  
20 just honestly did not know.

21 Say hi to Mr. Tamburnino.

22 MS. BRISBOIS: I will.

23 THE COURT: And thank all of you for being with  
24 us today.

25 MS. BRISBOIS: Thank you, Your Honor.

1 THE COURT: We are in recess.

2 MR. JACOBS: Thank you, Your Honor.

3 MS. BRISBOIS: Thank you, Your Honor.

4 **(Court was adjourned.)**

5 \* \* \*

6 I, Kristine Mousseau, certify that the foregoing  
7 is a correct transcript from the record of proceedings in  
8 the above-entitled matter.

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12 Certified by: s/ Kristine Mousseau, CRR-RPR

Kristine Mousseau, CRR-RPR

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